SUPREME COURT OF ARKANSAS

Kersten v. State Farm Mutual Automobile Insurance Co.

426 S.W.3d 455 (Ark. 2013) · Decided March 28, 2013

SUMMARY

The Arkansas Supreme Court held that the circuit court abused its discretion by denying class certification at the pleading stage of Brandi Kersten's claims against State Farm for unjust enrichment and deceptive business practices. The court concluded that the allegations sufficiently pleaded typicality, commonality, and predominance based on State Farm's alleged practice of sending collection-style letters concerning unadjudicated subrogation claims. The court reversed and remanded for further proceedings under Arkansas Rule of Civil Procedure 23.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Donald L. Corbin
JURISDICTION	Arkansas
DECIDED	March 28, 2013
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Kersten brought a counterclaim for unjust enrichment and violations of Arkansas and other states' consumer-protection laws and sought class certification. The Ashley County Circuit Court denied class certification at the pleading stage. Kersten pursued an interlocutory appeal.
STANDARD OF REVIEW	Abuse of discretion
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential.
PARTIES	Brandi Kersten v. State Farm Mutual Automobile Insurance Company

TOPICS

class actions · interlocutory appeal · appellate jurisdiction · consumer protection · insurance

PRACTICE AREAS

civil procedure · class actions · consumer protection · insurance · appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by denying class certification at the pleading stage based on alleged deficiencies in typicality, commonality, and predominance.
2. Whether the alleged variation among the consumer-protection laws of seventeen states defeated commonality and predominance at the pleading stage.
3. Whether individualized injury and damages allegations defeated typicality or predominance before class discovery and a full Rule 23 analysis.

HOLDINGS

1. The circuit court abused its discretion by prematurely denying class certification at the pleading stage without due consideration of governing Rule 23 precedent and without allowing an appropriate period for discovery.
2. At the pleading stage, Kersten sufficiently alleged typicality because her claim arose from the same alleged deceptive course of conduct directed at the putative class; the focus is on the defendant's conduct rather than the particular injury or damages suffered.
3. The counterclaim sufficiently alleged commonality and predominance because it identified common questions concerning State Farm's alleged practice of sending collection-style letters characterizing unadjudicated potential subrogation claims as liquidated debts.
4. Potential differences among the laws of the seventeen states identified in the proposed multistate class did not defeat commonality or predominance at the pleading stage.

KEY QUOTATIONS

> *"We conclude that on the record here presented, the circuit court acted prematurely and without due consideration of the law and therefore abused its discretion in denying class certification at the pleading stage of this particular case."* (at 455-56)

> *"We agree with the recent observation that dismissal of class allegations at the pleading stage should be done rarely and that the better course is to allow an appropriate period of discovery."* (at 456)

> *"Thus, when analyzing the factor of typicality, this court focuses upon the defendant's conduct and not on the injuries or damages suffered by the plaintiffs."* (at 458-59)

> *"Our law is now well settled that the mere fact that individual issues and defenses may be raised by the defendant cannot defeat class certification where there are common questions concerning the defendant's alleged wrongdoing that must be resolved for all class members."* (at 460)

FACTUAL BACKGROUND

State Farm sued Kersten after an automobile accident involving State Farm's insured. Kersten alleged that State Farm caused a collection-style letter to be sent identifying State Farm as a creditor and stating that Kersten owed $2,969.59, without disclosing that the asserted amount was an unadjudicated potential subrogation claim or tort claim. She alleged that State Farm used similar practices against other consumers and sought certification of Arkansas and multistate classes.

PROCEDURAL HISTORY

State Farm sued Kersten for negligence arising from an automobile accident. Kersten counterclaimed, alleging that State Farm used collection-style letters to seek payment of unadjudicated potential subrogation claims and asserted the counterclaim on behalf of proposed Arkansas and multistate classes. The circuit court denied class certification based on asserted deficiencies in typicality, commonality, and predominance, while allowing Kersten's individual claim to proceed. The Arkansas Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings directed to the circuit court's discretion under Rule 23. The Supreme Court did not determine that all six Rule 23 factors were satisfied and did not order certification.

CASES CITED

- Speights v. Stewart Title Guaranty Co., 358 Ark. 59, 186 S.W.3d 715 (2004)
- Foremost Insurance Co. v. Miller County Circuit Court, 2010 Ark. 116, 361 S.W.3d 805
- Walker v. World Tire Corp., 563 F.2d 918 (8th Cir. 1977)
- Guzman v. Bridgepoint Education, Inc., No. 11CV69 WQH (WVG), 2013 WL 593431 (S.D. Cal. Feb. 13, 2013)
- FirstPlus Home Loan Owner 1997-1 v. Bryant, 372 Ark. 466, 277 S.W.3d 576 (2008)
- Mega Life & Health Insurance Co. v. Jacola, 330 Ark. 261, 954 S.W.2d 898 (1997)
- DIRECTV, Inc. v. Murray, 2012 Ark. 366, 423 S.W.3d 555
- Faigin v. Diamante, 2012 Ark. 8, 386 S.W.3d 372
- ChartOne, Inc. v. Raglon, 373 Ark. 275, 283 S.W.3d 576 (2008)
- Savino v. Computer Credit, Inc., 173 F.R.D. 346 (E.D.N.Y. 1997), aff'd in part and vacated in part, 164 F.3d 81 (2d Cir. 1998)
- Security Benefit Life Insurance Co. v. Graham, 306 Ark. 39, 810 S.W.2d 943 (1991)
- General Motors Corp. v. Bryant, 374 Ark. 38, 285 S.W.3d 634 (2008)
- Farmers Union Mutual Insurance Co. v. Robertson, 2010 Ark. 241, 370 S.W.3d 179
- Parnes v. Gateway 2000, Inc., 122 F.3d 539 (8th Cir. 1997)
- Rios v. State Farm Fire & Casualty Co., 469 F. Supp. 2d 727 (S.D. Iowa 2007)

INSTRUCTIONS FOR AN AI ASSISTANT

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